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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR   | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|------------------------|---------------------|------------------|
| 10/574,168  | 06/27/2007  | Klaus Leuschner        | 2003P08256WOUS      | 4156             |
| 22116 7590 03/18/2009<br>SIEMENS CORPORATION<br>INTELLECTUAL PROPERTY DEPARTMENT<br>170 WOOD AVENUE SOUTH<br>ISELIN, NJ 08830 |             |                        |                     |                  |
| EXAMINER<br>MORAN, RANDAL D   |             |                        |                     |                  |
| ART UNIT<br>2435  |             | PAPER NUMBER           |                     |                  |
| MAIL DATE<br>03/18/2009   |             | DELIVERY MODE<br>PAPER |                     |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/574,168

**Applicant(s)**

LEUSCHNER ET AL.

**Examiner**

RANDAL D. MORAN

**Art Unit**

2435

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 10,11 and 13-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10,11 and 13-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

Claims 10, 11, and 13-25 are pending.

This Office Action is in response to amendment filed 12/4/2008.

Below, Examiner has pointed out particular references contained in the prior art(s) of record in the body of this action for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claims, other passages and figures may apply as well. Applicant should consider the entire prior art as applicable as to the limitations of the claims. It is respectfully requested from the applicant, in preparing the response, to consider fully each reference in its entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior arts or disclosed by the examiner.

### ***Claim Objections***

**Claims 11 and 19-25** is objected to because of the following informalities: The claims are dependent upon Claim 0. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. **Claims 10, 11, and 13-25** are rejected under 35 U.S.C. 102(b) as being anticipated by **Pou et al. (2005/0004873)**, hereafter “Pou”.

Considering **Claim 10**, Pou discloses a method for activating non-licensed software modules among a plurality of software modules resident in a computer-controlled switching device within a communications network (abstract), comprising: providing a switching device including a system database comprising a storage device (Fig. 2, [0057][0058]), installing providing a license database in the switching device, the license database including both one or more non-licensed software modules and licensed software modules and license information ([0014]), the license information resident in the switching device pertaining to each of the software modules ([0010]); connecting a portable data medium to the switching device and initiating an interaction between the license database and the portable medium with a cryptographic algorithm to determine whether the storage device and the portable data medium each include matching hardware identification information ([0011], [0014], [0059]); next transmitting determined matching hardware identification information and license information pertaining to at least one software module over a communication link from the switching device to a license manager ([0011]), the license manager then determining whether license authorization exists for the switching device to use the at least one software module ([0055][0056]); the license manager then creating a license confirmation via a license reference database having licenses for software modules purchased for of the switching device ([0066]); and sending the license confirmation information to the switching device thereby permitting use of the software module

([0075],[0076]), wherein the license manager is remotely located from the switching device (Fig. 2, [0057]).

Considering **Claim 11**, Pou discloses: wherein an asymmetrical encryption is used in the interaction between the license database and the portable medium (0059).

Considering **Claim 13 and 20**, Pou discloses: wherein the portable medium is a card selected from the group consisting of smart card, chip card and SD/MultiMedia card (0102).

Considering **Claim 14**, Pou discloses: wherein the hardware identification information is created from a identification number of the license database and a information stored on the card (0065).

Considering **Claim 15 and 21**, Pou discloses: wherein the hardware identification information and the license information transmitted from the switching to the license manger are encrypted (0059).

Considering **Claim 16**, Pou discloses: wherein the license manager is a server and is networked with the switching device via a communication network (0010).

Considering **Claim 17 and 23**, Pou discloses: wherein the created license confirmation information authorizes operation of the software module in the switching device when the license information for the software module is included in the purchased licenses (0070, 0099).

Considering **Claims 18 and 24**, Pou discloses: wherein the created license confirmation information authorizes a test operation of the software module in the switching device when the license information for the software module is not included

in the purchased licenses, and wherein the test operation is for a period of time (0070, 0099).

Considering **Claims 19 and 25**, Pou discloses: wherein the communication connection between the switching device and the license manager is routed via a circuit-switched or a packet switch communication network (0010).

### ***Response to Arguments***

Applicant's arguments filed 12/4/2008 have been fully considered but they are not persuasive.

Regarding **Claim 10**, applicant's arguments have been fully considered but are not persuasive. With respect to applicants arguments that Pou fails to teach *initiating an interaction between the license database and the portable data medium ... to determine whether the storage device and the portable data medium each include matching hardware identification information...*, it is noted that the features upon which applicant relies (i.e., to determine whether the storage device and the portable data medium each include matching hardware identification information) were not recited in previously rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant is further directed to Pou – [0062]. Pou teaches:

“The information written to the network drive or external storage identifies the user devices or machines that connect to the network drive or external storage using a unique user ID and/or device ID. For example, in the case of a family-shared server or other shared network server situation, the drive may have multiple user and/or device IDs (or a combination of the two) stored in an

encrypted file on the network drive or external storage. When a new machine connects to the drive, identification information for the new machine is added to the encrypted file on the network drive or external storage. This identification information may be tracked centrally (e.g., at the central server 240 or central database 250) to prevent a situation where an excessive number of users or machines are using the same media, thus violating the licensing rules for the media.”

Pou discloses identification information is used to track users and ensure licensing rules for the media are not violated.

With respect to applicant's argument that Pou fails to teach *determining whether the storage device and the portable data medium each include matching hardware identification information and "next transmitting determined matching hardware identification information and license information pertaining to at least one software module ... to a license manager ...*, applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RANDAL D. MORAN whose telephone number is (571)270-1255. The examiner can normally be reached on M-F: 7:00 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on 571-272-3859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. D. M./  
Examiner, Art Unit 2435  
3/15/2009

/Kimyen Vu/  
Supervisory Patent Examiner, Art Unit 2435